

**REQUIREMENTS FOR BANKRUPTCY NOTICING CENTER
SUPPORT OF:**

**THE BANKRUPTCY ABUSE PREVENTION AND CONSUMER
PROTECTION ACT OF 2005**

AND

FEDERAL RULE OF BANKRUPTCY PROCEDURE 2002(G)(4)

The United States Bankruptcy Courts, through the Administrative Office of the United States Courts (AO) and the AO's Bankruptcy Noticing Working Group, seek to modify services offered through the judiciary's Bankruptcy Noticing Center (BNC) program.

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005

Two key provisions of the of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("the Act") are expected to require modification to the BNC contract requirements. Section 315 of the Act includes provisions that will amend 11 U.S.C. § 342 as follows:

1. Section 342(e) provides that a creditor may file with the court and serve on the debtor a notice of the address that must thereafter be used to give notice to the creditor in that case. The court and debtor must use that address beginning five days after they receive the creditor's notice.
2. Section 342(f) permits a creditor to file a notice with any bankruptcy court setting out the address or addresses to which notices must be sent to the creditor by all bankruptcy courts or by particular bankruptcy courts. This address notice becomes effective 30 days after it is filed with a court. The notice in a specific case under subsection (e) supercedes the more global address notice that might be filed under (f).

These provisions of the Act will become effective October 17, 2005.

Federal Rules of Bankruptcy Procedure 2002(g)(4) and 9001(9)

In addition, a pending modification to the Fed.R.Bank.Pr. 2002(g), scheduled to become effective December 1, 2005, adds the following provision:

(4) Notwithstanding Rule 2002(g)(1)-(3), an entity and a notice provider may agree that when the notice provider is directed by the court to give a notice, the notice provider shall give the notice to the entity in the manner agreed to and at the address or addresses the entity supplies to the notice provider. That address is conclusively presumed to be a proper address for the notice. The notice provider's failure to use the supplied address does not invalidate any notice that is otherwise effective under applicable law.

Bankruptcy Rule 9001(9) will be amended to define a “Notice Provider” as any entity approved by the Administrative Office to give notice to creditors under Rule 2002(g)(4).

While the provisions of Section 315(f) of the bill and proposed rule 2002(g)(4) are similar in that a creditor can specify a preferred address, the Judicial Conference’s Advisory Committee on Bankruptcy Rules has determined that both the code provisions and the rule amendment are not in conflict and can coexist. The following contractor-supported enhancements are requested in order for courts to comply with the new requirements introduced in the statute and rules.

The Bankruptcy Noticing Working Group has recommended that an interim bankruptcy rule be adopted by the Judicial Conference directing that all notices filed pursuant to section 342(f) of the Bankruptcy Code and Rule 2002(g)(4) be delivered to the BNC. In addition, forms drafted for use by creditors to file address notifications will be considered for publication as national Administrative Office forms (“Director’s forms”).

Support for the new bankruptcy noticing requirements will fall under the BNC contractor’s support of the National Creditor Registration Service (NCRS).

As of May 27, 2005, based on recommendations by the Bankruptcy Noticing and CM/ECF Working Groups, the Administrative Office and the BNC contractor will consider options to develop an automated interface between CM/ECF and PACER and the BNC NCRS system in order for court users to produce mailing lists that reflect NCRS addresses. The requirements will be provided separately.

I. REGISTRATION OF PREFERRED ADDRESS(ES)

- a. The Administrative Office will furnish forms for use by entities to register a preferred address, or addresses, with the Bankruptcy Noticing Center pursuant to Fed.R.Bank.Pr. 2002(g)(4) which, for notices transmitted by courts through the BNC, are deemed to be notices sent to the creditor pursuant to 11 U.S.C. § 342(f).
- b. The forms and instructions should be made available on the Electronic Bankruptcy Noticing (EBN) website (EBNuscourts.com) for on-line completion.
 1. Both EBN and the new service to register preferred U.S. mailing address(es) fall under the NCRS program. The contractor will update the website to promote EBN and the new NCRS enhancement to register preferred U.S. mailing addresses. Screen shots will be provided for the Government’s approval.
 2. The contractor will identify a URL, subject to the Government’s approval, containing “NCRS” and “courts” that will function as the NCRS program home page. The URL www.ncrsuscourts.com would be preferred.
- c. The contractor will provide a method to review address lists submitted by courts to identify creditors and other entities that have provided a notice of preferred address

for bankruptcy court notices. The name/address matching process currently used in the Electronic Bankruptcy Noticing program is an acceptable model.

- d. The contractor will provide an estimate of time it will take to process notices of preferred address, make modifications to name and address lists, and respond to requests to terminate mailing arrangements. All notifications to register mailing addresses must be processed and placed into production no later than 30 days upon receipt.
- e. The NCRS will support single-district, multiple district and national address notifications filed pursuant to 11 U.S.C. § 342 (f).
- f. The BNC will thoroughly review all incoming address notifications for completeness of required fields and attachments and will bring any deficiencies to the attention of the filer.

II. **COURT AND PUBLIC ACCESS TO NATIONAL CREDITOR REGISTER QUERY SYSTEM**

Options are currently under consideration to provide court and public accessibility to the BNC-maintained creditor preferred address database for the purpose of creating a local mailing list.

III. **NOTICES TRANSMITTED TO CREDITORS PURSUANT TO 11 U.S.C. § 342(e)**

- a. The contractor should adopt a process to recognize a CM/ECF Release 2.7 field modification which will flag an address in a particular case that should not be included in the BNC name/address matching process. With the exception of evaluating the address using the U.S. Postal Service Coding Accuracy Support System (CASS), and making changes to the printed and bar coded zip code, as required by the contract, any addresses containing the flag will be printed and mailed as provided via the address list.

Technical specifications are attached (CM/ECF Design Specification, Task 1302, pending review by the Bankruptcy Noticing and CM/ECF Working Groups).

- b. Section 342(e) notices inadvertently transmitted to the BNC should be forwarded to the court with a transmittal form letter. The form letter should state:
“Attached please find a case-specific "preferred address" request erroneously submitted to the Bankruptcy Noticing Center. This document is forwarded to the Clerk of Court for the District in which this case was filed for appropriate action.”
A copy of the transmittal letter and notice should be sent to the party that submitted the notice.

IV. **CHAPTER 15 NOTICING REQUIREMENTS**

- a. The contractor will recognize and support notices transmitted through the BNC under new chapter 15 of the Bankruptcy Code.

V. **CUSTOMER SUPPORT REQUIREMENTS**

- a. The contractor will provide assistance to creditors registering for the service. The contractor may use existing EBN support staff and the toll-free EBN customer service line.
- b. Support specialists should be knowledgeable in the basic aspects of the noticing-related changes to the Bankruptcy Code and Rules as they impact the NCRS program:
 - (1) Staff should be knowledgeable in the fundamental differences between Sections 315 (e) and (f) of the Act [Bankruptcy Code Section 342 (e) and (f)].
 - (A) Notices filed pursuant to subsection (e) should be sent directly to the court(s). Filers should contact the appropriate clerk's office for further instructions.
 - (B) Customer support specialists should answer any questions related to the BNC's procedures for processing notices of preferred address filed pursuant to subsection (f).

VI. **REPORTING REQUIREMENTS**

- a. The BNC Certificate of Service should clearly indicate each recipient to which notice was redirected to a preferred address pursuant to 11 U.S.C. 342(f)/Fed.R.Bank.Pr. 2002(g)(4).
 - (1) Under the "notices served by First Class Mail" section of the Certificate of Service, the list should show the entity's name, address provided in the court address file, along with the address to which the notice was re-directed. A double "++" to the left of the address, along with an explanation placed under the zip code statement, should be printed on the Certificate of Service.
 - (2) The explanatory statement should read: "Addresses marked '++' were redirected to the recipient's preferred mailing address pursuant to 11 U.S.C. 342(f)/Fed.R.Bank.Pr. 2002(g)(4)."
- b. The BNC Certificate of Service should clearly indicate each recipient to which notice was mailed to the recipient's preferred address for the case pursuant to 11 U.S.C. 342(e).
 - (1) Under the "notices served by First Class Mail" section of the Certificate of

Service, the list should show the entity's name along with the address transmitted by the court. A triple "+++" to the left of the address, along with an explanation placed under the zip code statement, should be printed on the Certificate of Service.

- (2) The explanatory statement should read "Addresses marked '+++' were transmitted to the recipient's preferred mailing address pursuant to 11 U.S.C. 342(e)."
- c. The contractor will monitor the level of network traffic on the NCRS public and court query servers and provide a monthly usage summary in the monthly invoice submitted to the Bankruptcy Court Administration Division.
- d. The contractor should provide a monthly report of postage savings achieved as a result of the notices mailed pursuant to 11 U.S.C. 342(f)/Fed.R.Bank.Pr. 2002(g)(4). This information can be furnished with the monthly national production invoice via a new report (format to be approved by the Administrative Office) or may be included in an existing report.
- e. The contractor should store all 342(f) notices for the remainder of the contract. Additional instructions/guidance will be provided by the Government.

VII. **MARKETING**

- a. EBN Customer Support Representatives (CSRs) should contact each filer of a notice of preferred mailing address in order to increase EBN program awareness, advise of the pending elimination of the electronic receipt requirement of Fed.R.Bank.Pr. 9036, and to register new EBN subscribers.
- b. The contractor should provide an outline of the marketing script to be strictly followed by EBN CSRs for approval by the Administrative Office.